

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
JEFFREY LONG,

Plaintiff,

-against-

JOHN CALACA, DANIEL FLANICK, JAMES DETCH,  
AND TOWN OF CRAWFORD

Defendants.  
-----X

Hon. Charles L. Brieant

ANSWER

07 CIV. 8083

Defendant JAMES DETCH, by his attorneys, TARSHIS, CATANIA, LIBERTH, MAHON & MILLIGRAM, PLLC, answering the complaint of the plaintiff, alleges as follows:

PARTIES

FIRST: Denies any knowledge or information sufficient to form a belief as to the truth or falsity of each and every allegation contained in the paragraphs of the complaint numbered "1," "2," "3" and "5."

SECOND: Denies any knowledge or information sufficient to form a belief as to the truth or falsity of each and every allegation contained in the paragraph of the complaint numbered "4" in the form alleged except admits that JAMES DETCH is a former member of the Police Advisory Board and respectfully refers all questions of law and fact to the court and trier-of-fact, respectively.

THIRD: Denies each and every allegation contained in the paragraph of the complaint numbered "6" and respectfully refers all questions of law and fact to court and trier-of-fact, respectively.

JURISDICTION AND VENUE

FOURTH: Denies each and every allegation contained in the paragraph of the complaint numbered "7."

FIFTH: Denies any knowledge or information sufficient to form a belief as to the truth or falsity of each and every allegation contained in the paragraph of the complaint numbered "8" and respectfully refers all questions of law to the court.

STATEMENT OF CLAIMS

SIXTH: Denies any knowledge or information sufficient to form a belief as to the truth or falsity of each and every allegation contained in the paragraphs of the complaint numbered "9," "10," "11" and "12."

SEVENTH: Denies each and every allegation contained in the paragraph of the complaint numbered "13" and respectfully refers all questions of law and fact to court and trier-of-fact, respectively.

EIGHTH: Denies each and every allegation contained in the paragraphs of the complaint numbered "14," "15(i-vii)," "16," "17," "18," "19," "20," "23," "24," "25," "26," "27" and "28."

AS AND FOR A FIRST AFFIRMATIVE DEFENSE

NINTH: The injuries and/or damages alleged to have been sustained by the plaintiff were caused in whole or partly by the culpable conduct of the plaintiff.

AS AND FOR A SECOND AFFIRMATIVE DEFENSE

TENTH: The allegations set forth within the complaint fail to state a cause of action under the First Amendment and the Fourteenth Amendment to the United States Constitution.

AS AND FOR A THIRD AFFIRMATIVE DEFENSE

ELEVENTH: The plaintiff failed to mitigate his damages.

AS AND FOR A FOURTH AFFIRMATIVE DEFENSE

TWELFTH: The plaintiff had no property interest that was entitled to constitutional protection and, accordingly, the plaintiff cannot maintain this action. In addition, the plaintiff was not denied a certificate of occupancy.

AS AND FOR A FIFTH AFFIRMATIVE DEFENSE

THIRTEENTH: The plaintiff's complaint as against defendant JAMES DETCH is barred on the grounds of qualified immunity.

AS AND FOR A SIXTH AFFIRMATIVE DEFENSE

FOURTEENTH: No act or omission alleged on the part of defendant JAMES DETCH was the proximate cause of any alleged violation of plaintiff's constitutional rights.

AS AND FOR A SEVENTH AFFIRMATIVE DEFENSE

FIFTEENTH: The plaintiff did not exhaust his state remedies.

AS AND FOR AN EIGHTH AFFIRMATIVE DEFENSE

SIXTEENTH: JAMES DETCH did not act under color of state law and did not conspire with any of the co-defendants. Any alleged wrongful acts on the part of JAMES DETCH were performed under threat of physical and financial harm by defendant DANIEL FLANICK.

AS AND FOR AN NINTH AFFIRMATIVE DEFENSE

SIXTEENTH: The plaintiff did not possess a viable civil cause of action or have a viable criminal complaint against non-party CLAUDE BABCOCK.

WHEREFORE, defendant JAMES DETCH demands judgment:

1. dismissing the complaint;
2. apportioning liability between all parties; and
3. awarding costs, disbursements and attorneys' fees incurred in this action.

Dated: Newburgh, New York  
April 23, 2008

Yours, etc.,

TARSHIS, CATANIA, LIBERTH,  
MAHON & MILLIGRAM, PLLC

By: S/ RALPH L. PUGLIELLE, JR.  
RALPH L. PUGLIELLE, JR. (# 4294)  
Attorneys for Defendant  
JAMES DETCH  
One Corwin Court, P.O. Box 1479  
Newburgh, New York 12550  
Tel. No. (845) 565-1100

TO: ROBERT N. ISSEKS, ESQ.  
Attorneys for Plaintiff  
6 North Street  
Middletown, New York 10940  
Tel. No. (845) 344-4322

BENJAMIN OSTRER, ESQ.  
OSTRER ROSENWASSER, LLP  
Attorneys for DANIEL FLANICK  
111 Main Street  
Chester, New York 10918  
Tel. No. (845) 469-7577

RICHARD S. SKLARIN, ESQ.  
MIRANDA & SOKOLOFF, LLP  
Attorneys for TOWN OF CRAWFORD  
The Esposito Building  
240 Mineola Boulevard  
Mineola, New York 11501  
Tel. No. (914)345-6510

DAMIAN J. BRADY, ESQ.  
LAW OFFICES OF BERNARD D. BRADY  
Attorneys for JOHN CALACA  
75 Main Street  
P.O. Box 639  
Goshen, New York 10924  
Tel. No. (845) 294-6181